

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Patent Application of

KETTUNEN

Serial No. 09/533,904

Filed: March 21, 2000

For: COOKING CELLULOSE MATERIAL USING HIGH
ALKALI CONCENTRATIONS AND/OR HIGH PH NEAR
THE END OF THE COOK



Atty. Ref.: 10-1304

Group: 1731

Examiner: Nguyen

September 16, 2002

Assistant Commissioner for Patents
Washington, DC 20231

APPLICANT'S REPLY BRIEF

Sir:

This Brief is being submitted in reply to the Examiner's Answer dated July 15, 2002. An oral hearing was previously requested with the Applicant's Appeal Brief dated April 29, 2002. Such oral hearing request is hereby reaffirmed.

The Examiner's comments in his Answer of July 15, 2002, appear to focus on the EA concentrations in step (d) and (e). In this regard, the Examiner attempts to draw parallels to the presently claimed reissue subject matter to support his conclusion that improper recapture under 35 USC §251 is being pursued. Applicant again emphasizes that it is the EA concentration between the **cooking** liquors **at the beginning of the first and second cooking zones** that is being defined in independent claim 47 pending herein. In contrast, the EA concentrations in step (e) referenced by the Examiner to support the rejection under 35 USC §251 are to the **spent** cooking liquor from the **second cook zone**. Furthermore, while amendment was presented in patent claim 16 so as to define the EA concentration of the liquor during the last 15 minutes of the cook to be 20-40 g/l vs. 18-40 g/l as originally filed, it should be clear that **no** amendment was submitted to claim 16 which limited the EA concentration between the cooking liquors at

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the **beginning** of the first and second cooking zones. Indeed, claim 16 retained the language that the second cooking liquor have a second EA concentration of greater than about 25 g/l and greater than the first EA concentration.

Hence, applicant again submits that the alleged improper broadening asserted by the Examiner relates to an aspect of the claim that was **never narrowed** during prosecution in order to overcome the prior art. As such, the proscription against recapture of subject matter does not apply to the present application. Withdrawal of the rejection advanced against 35 USC §251 is therefore in order.

Such favorable decision on the merits continues to be solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

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KETTUNEN

Serial No. 09/533,904

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Title: COOKING CELLULOSE MATERIAL USING
HIGH ALKALI CONCENTRATIONS AND/OR
HIGH PH NEAR THE END OF THE COOK



Atty. Dkt.: 10-1304
C# M#

Group Art Unit: 1731

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Sir:

☐ **NOTICE OF APPEAL**

Applicant hereby appeals to the Board of Appeals from the decision dated _____
of the Examiner twice/finally
rejecting claims _____ (\$ 320.00)

☐ An appeal **BRIEF** is attached in triplicate in the pending appeal of the
above-identified application (\$ 320.00)

☐ An **ORAL HEARING** is requested under Rule 194 (\$ 280.00)
(due within two months after Examiner's Answer)

☐ Credit for fees paid in prior appeal without decision on merits

☒ A reply brief is attached in triplicate under Rule 193(b)

☐ Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s) (\$110.00/1 month; \$400.00/2 months; \$920.00/3 months; \$1440.00/4 months)

SUBTOTAL

☐ Applicant claims "Small entity" status, enter 1/2 of subtotal and subtract
☐ "Small entity" statement attached.

SUBTOTAL

Less month extension previously paid on

TOTAL FEE ENCLOSED \$ 0.00

Any future submission requiring an extension of time is hereby stated to include a petition for such time extension. The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our **Account No. 14-1140**. A duplicate copy of this sheet is attached.

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By Atty.: Bryan H. Davidson, Reg. No. 30,251

Signature: _____

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